

JAMES B. FAUST,)	
Plaintiff,)	
)	
v.)	C.A. No. 12-12166-JLT
)	
GERARD HORGAN, ET AL.,)	
Defendants.)	
)	

MEMORANDUM AND ORDER FOR DISMISSAL

TAURO, D.J.

Prisoner Plaintiff James B. Faust (“Faust”) filed this civil rights action alleging, *inter alia*, that the Defendants generated a false disciplinary report regarding his administrative grievances, in order to deny him access to the Court. On December 5, 2012, this Court issued a Memorandum and Order (Docket No. 5) denying Faust’s Motion for Leave to Proceed *in forma pauperis* (Docket No. 2) without prejudice to renew in 21 days by submitting a motion along with his certified prison account statement. Additionally, Faust was directed to demonstrate good cause in writing within 42 days why this action should not be dismissed for the reasons stated therein. These reasons included the failure to state plausible claims against the state Defendants under the Privacy Act, the failure to state plausible claims under the Prison Litigation Reform Act, the failure to set forth plausible claims in accordance with Rule 8 of the Federal Rules of Civil Procedure, and the apparent failure to exhaust administrative remedies in accordance with 42 U.S.C. § 1997e(e).

Finally, Faust was directed to file an Amended Complaint within that 42-day period.

DISCUSSION

To date, Faust has failed to pay the filing fee or file a renewed Motion for Leave to Proceed *in forma pauperis* as directed. Additionally, Faust has failed to demonstrate good cause

why this action should not be dismissed, and failed to file an Amended Complaint curing the pleading deficiencies outlined in the prior Memorandum and Order.

Accordingly, for the failure of Faust to comply with the directives of this Court, for the failure to pay the filing fee, and for the substantive reasons contained in the Memorandum and Order (except as set forth below), this action will be DISMISSED.

For purposes of any determination of application of the three-strikes rule of 28 U.S.C. § 1915(g), this ruling is intended to be a decision on the merits. To be clear, however, this Court is not dismissing this case based on the grounds of failure to exhaust administrative remedies; rather, this dismissal is based on the failure to state plausible claims upon which relief may be granted, as discussed in the Memorandum and Order (Docket No. 5 at 6-12).

CONCLUSION

Based on the foregoing, it is hereby ORDERED that this action is DISMISSED in its entirety.

SO ORDERED.

/s/ Joseph L. Tauro
JOSEPH L. TAURO
UNITED STATES DISTRICT JUDGE

DATED: January 28, 2013